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Indiana. Laws, etc.

Compilation of Laws Regulating the
Practice of Pharmacy. 1948

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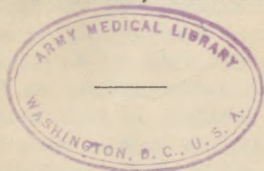
Indiana Board of PHARMACY

A Compilation of the Laws
Regulating the Practice of Pharmacy
and Other Laws of Interest to
Pharmacists

January, 1948

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Section Numbers and Titles Refer
to Burn's Indiana Annotated
Statutes, Revision of 1933

SEP 12 1950

Compilation of Pharmacy and Drug Laws

I. Pharmacy Laws.

[Acts 1899, p. 159.]

Board of Pharmacy. Section 1. On the taking effect of this act the governor of Indiana shall appoint five pharmacists, no more than three (3) of whom shall belong to the same political party, who shall constitute a board to be styled the Indiana board of pharmacy. Two members of said board shall be appointed and hold office for one year, one for two years, one for three years and one for four years, and each until his successor is appointed and qualified, and the term of office of each person thereafter appointed shall be four years. Annually after these first appointments the governor shall appoint pharmacists to fill vacancies as they occur by expiration of term of appointment. Any vacancy occurring at other times in said board shall be filled by a pharmacist appointed by the governor for the unexpired term. All of said appointments shall be made by the governor from pharmacists of recognized experience and ability, who are actually engaged in the retail drug business. No person in any manner connected with any school of pharmacy shall be eligible to serve on said board. Any member of said board shall be removed by the governor for cause. (As amended by Acts 1907, p. 317; Burns' 1933, Sec. 63-1101.)

Oaths, Organization, Meetings. Sec. 2. Each member of said board shall, within ten days after his appointment, take and subscribe an oath or affirmation before a competent officer to faithfully and impartially perform the duties of his office. Should any appointee fail to qualify within the specified time his place shall be declared vacant and the vacancy shall be filled as specified in section one. Said board shall, within fifteen days after the appointment of its members, organize by the election of a president and a secretary from among its members, who shall

hold office for one year and perform such duties as shall be prescribed by said board and as hereinafter mentioned. The board shall adopt such rules and regulations as it may deem necessary to carry out the provisions of this act and of such other acts as shall confer powers and duties on said board and provide and maintain facilities for conducting a practical examination in laboratory practice and prescription work. It shall direct prosecutions and see to the enforcement of the provisions of this act, or any other act pertaining to the sale of cocaine, alpha or beta eucaine, opium, morphine or heroin, or any salt or any compound or derivative of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances or any of their salts or compounds or derivatives. It shall report annually to the governor upon the condition of pharmacy in the state. It shall meet four times a year for the transaction of official business as follows: On the second Mondays of January, April, July and October, respectively, at such places as the board may select; and the board shall hold additional meetings for the transaction of official business as the business of such board may require. At such meetings said board shall continue in session from day to day until the business of such meeting is finished, not, however, exceeding five days at any meeting. Three members of such board shall constitute a quorum. (As amended by Acts 1907, p. 317, and Acts 1913, p. 296; Burns' 1933, Sec. 63-1102.)

Pharmacists, Registered—Qualifications for License. Sec. 3. Upon the payment of such fee or fees as are hereinafter provided, said board shall grant and issue a license as registered pharmacist to any person not less than twenty-one years of age, or as registered assistant pharmacist to any person not less than eighteen years of age, as hereinafter provided, for one year, or the unexpired portion thereof, prior to the next regular date of re-registration, upon producing evidence satisfactory to said board of the following qualifications, to wit: To be a registered phar-

macist, he shall pass a satisfactory examination before said board and shall produce and file such evidence as is satisfactory to said board of having served four years in a store or pharmacy where physicians' prescriptions are compounded: *Provided*, That nothing in this act shall require any pharmacist now holding a license under the laws of the State of Indiana to register under this act, except that such pharmacist, upon the expiration of his present license, shall be required to re-register as provided by law. In the case of an applicant for license as a registered pharmacist, who is a graduate of a school or pharmacy of such standing and requirements as are satisfactory to the board of pharmacy, the actual time spent in attendance at such school shall be accepted as an equivalent for a term of service of equal length in a store or pharmacy where physicians' prescriptions are compounded. To be a registered assistant pharmacist, he shall have served as a clerk for three years in a store or pharmacy in which physicians' prescriptions are compounded and shall pass a satisfactory examination before said board, and shall produce and file such evidence as is satisfactory to the board that he is a graduate of an accredited high school or has the equivalent in education, and has successfully completed not less than eighteen months of work in a recognized school of pharmacy. In the case of an applicant for a license as registered assistant pharmacist who is a graduate of a school of pharmacy of such standing and requirements as are satisfactory to the board of pharmacy, the actual time spent in attendance at such school shall be accepted as an equivalent for eighteen months of service in a store or pharmacy where physicians' prescriptions are compounded. Said board may, in its discretion, grant and issue a license as registered pharmacist or as registered assistant pharmacist without examination, to any person who shall produce to said board a certificate of registration of like tenor from another state which requires a degree of competency and experience equal to that required of applicants in this state, subject to the conditions of this act. (As amended

by Acts 1907, p. 317; Acts 1913, p. 296; Acts 1923, p. 101 and Acts 1929, p. 181; Burns' 1933, Sec. 63-1103.)

Compiler's Note. This section has been supplemented by sections 63-1105 and 63-1107. The board now requires that schools of pharmacy recognized by it give a four years' course. Graduation from a recognized school is made, by Sec. 63-1105, a prerequisite to eligibility to take the examination to become a registered pharmacist. Consequently, when the sections are construed together, graduation from a recognized college is a prerequisite to becoming a registered pharmacist. Therefore, serving four years in a store where prescriptions are filled, as stipulated in this section, is no longer sufficient. The rules of the board should be consulted for exceptions in certain cases.

[Acts 1935, p. 1289.]

Indiana Board of Pharmacy — Assistant Pharmacist — Status of — Examinations — Fees. That on the taking effect of this act it shall be unlawful for the Indiana board of pharmacy to prepare or hold any examination to determine the qualifications of an assistant pharmacist or to issue a certificate of registration to any such assistant pharmacist, but such persons who are now registered under the laws of this state as registered assistant pharmacists shall continue to hold their status as registered assistant pharmacist: Provided, however, That after the passage of this act and until August 1, 1936, the Indiana board of pharmacy shall hold not less than four examinations, at such times and places as it may determine to examine all persons now registered as assistant pharmacists for certificates as registered pharmacists. All persons who are registered assistant pharmacists under the laws of this state and are in good standing at the time of the passage of this act and at the time of making application for examination as a registered pharmacist, as provided herein, shall be eligible to become a registered pharmacist upon the passage of an examination satisfactory to the Indiana board of pharmacy. Any such

registered assistant pharmacist shall have the right to take any one or more of the examinations provided by this act. Before any applicant shall be permitted to take any of such examinations, he shall pay to the Indiana board of pharmacy a fee of ten dollars.

[Acts 1919, p. 95.]

Registered Pharmacist Examination. Section 1. That on and after the first of July, 1923, no person shall be eligible to take the examination to become a registered pharmacist until such person shall have produced and filed such evidence as is satisfactory to the Indiana board of pharmacy that he is a graduate of an accredited high school or has an equivalent in education and that he has graduated from a school of pharmacy in good standing, as herein provided. (As amended by Acts 1923, p. 106; Burns' 1933, Sec. 63-1105.)

School of Pharmacy, Requirements. Sec. 2. A school of pharmacy in good standing as provided for in this act is hereby defined as a school of pharmacy which meets and complies with the requirements as prescribed by the Indiana board of pharmacy. The board of pharmacy shall prescribe and promulgate such requirements for the recognition of schools of pharmacy as the board may deem necessary and just, and the requirements so promulgated shall be subject to such changes as may be made from time to time by the board, and as the board may deem necessary and proper. The requirements as promulgated by the board shall include the provisions outlined by the National Syllabus for courses of instruction, equipment and professional staff. (As amended by Acts 1923, p. 106; Burns' 1933, Sec. 63-1106.)

[Acts 1923, p. 106.]

Application of Act. Sec. 3. This act shall not apply to any person who is a registered assistant pharmacist or a registered apprentice pharmacist at the time that this bill shall become a law. (Burns' 1933, Sec. 63-1107.)

[Acts 1919, p. 95.]

Validity of Act. Sec. 5. If any provision or section of this act shall be held void or unconstitutional, all other provisions and all other sections of the act, which are not expressly held to be void or unconstitutional, shall continue in full force and effect. (Burns' 1933, Sec. 63-1109.)

[Acts 1899, p. 159.]

Fees for Examinations, Renewals — Apprentice Pharmacists. Sec. 4. The fee for the examination of an applicant as a registered pharmacist shall be ten dollars (\$10); and the fee for the examination of an applicant as registered assistant pharmacist shall be ten dollars (\$10). All licenses issued under the provisions of this act shall expire on the thirtieth day of June next succeeding the date of issuance thereof. Every registered pharmacist and every registered assistant pharmacist shall be required to re-register annually with the board of pharmacy and pay to the board a renewal fee of three dollars (\$3.00), if such renewal fee be paid at any time between the first day of July and the first day of August, next succeeding the date of the expiration of such license; and a renewal fee of four dollars (\$4.00), if such renewal fee be paid at any time between the first day of August and the first day of September, next succeeding the date of the expiration of such license; and a renewal fee of five dollars (\$5.00), if such renewal fee be paid at any time between the first day of September and the first day of October, next succeeding the date of the expiration of such license. If the renewal fee is not paid on or before the first day of October of each year, the certificate shall be ipso facto void, and the holder thereof may be reinstated as a registered pharmacist or as an assistant registered pharmacist only by passing a successful examination before the board of pharmacy: *Provided*, That in case of failure of either a registered pharmacist or an assistant registered pharmacist to pay renewal fee after the first day of October of any year, and such registration may, in the

discretion of the board of pharmacy, be restored upon the payment of all fees unpaid and a penalty of twenty-five dollars (\$25) for each year or fraction of a year for which payment was in default, provided payment is made within five (5) years from the date of the re-registration period. Any registered pharmacist who shall take into his employ any person as an apprentice for the purpose of acquiring a knowledge of the profession and of becoming a pharmacist, shall require such apprentice, within ninety days after accepting employment, to make written application to the board of pharmacy for a license as a pharmacist apprentice, and the board of pharmacy may, upon receipt of such application, require such apprentice to undergo an examination for the purpose of ascertaining his educational qualifications. The period of experience required by law of applicants for registered pharmacist or assistant registered pharmacist shall be computed from the date of registration as a pharmacist apprentice and any such person who fails or refuses to register as a pharmacist apprentice shall receive no credit for experience as an employee in a pharmacy. The fee for the registration of a pharmacist apprentice shall be one dollar (\$1.00). The state board of pharmacy shall pay to the Indiana Pharmaceutical Association each year out of the annual renewal fees collected, the sum of one dollar (\$1.00) for each registered pharmacist and the sum of one dollar (\$1.00) for each assistant registered pharmacist who shall pay a renewal fee during the year. The funds so paid to the Indiana Pharmaceutical Association shall be used for the purpose of promoting the science and art of pharmacy and shall be paid on condition that such association shall report annually to the state board of pharmacy on the condition of pharmacy in the state. The fee for the registration by certificate of a registered pharmacist from another state shall be twenty-five dollars (\$25). All fees provided for in this act shall be paid to the secretary of the board with the application. (As amended by Acts 1907, p. 317; Acts 1923, p. 101 and Acts 1924, p. 181; Burns' 1933, Sec. 63-1110.)

Evidence of Qualification. Sec. 5. Each applicant for registration or examination shall produce and file with his application such evidence touching his qualifications as may be prescribed by the rules and regulations of the board. (Burns' 1933, Sec. 63-1111.)

Secretary, Bond, Duties. Sec. 6. The secretary of the board shall, before entering upon the duties of his office, execute an official bond, approved by the governor, payable to the State of Indiana, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office. He shall keep a record of the doings of the board, which record shall contain the names and residences of all the applicants and the action taken on their respective applications. He shall, at the close of each meeting of the board, transmit to the secretary of state for record, a list containing the names and residences of such persons as shall have received licenses as registered pharmacists, and also a list containing the names and residences of such persons as shall have received licenses as registered assistant pharmacists at such meeting of the board. The secretary of the board, upon the order of the auditor of state, shall transmit to the treasurer of state all moneys received by him as secretary, together with a sworn statement of the expenses of said board at such meeting, which moneys shall be held for the payment of the salaries and expenses of the board, as provided in section 7 of this act. The secretary of the board shall notify each holder of a license or certificate the date of the expiration of said license or certificate, not less than thirty days nor more than sixty days prior to the expiration of said license or certificate. (Burns' 1933, Sec. 63-1112.)

Compensation. Section 7. Each member of the board, except the secretary, shall receive ten dollars per day for each day actually engaged in service of the board, together with the necessary expense incurred in the performance of his strictly official duties, an itemized statement of which must be filed with the auditor of state. The secretary shall receive not to exceed eighty-five dollars (\$85)

per month, and necessary traveling or other expenses; the said salary of secretary to be paid monthly upon the order of the auditor of state. The compensation and expense of said board shall be paid out of the fund in the state treasury arising from the fees as provided in section 4 or from such sums as may be appropriated by the general assembly for that purpose. (As amended by Acts 1907, p. 317; Acts 1913, p. 296 and Acts 1929, p. 181; Burns' 1933, Sec. 63-1113.)

Sales Prohibited, Exceptions. Sec. 8. On and after July 1, 1899, it shall be unlawful for any person to conduct a store or pharmacy in which is sold at retail, or to sell at retail, any chemical, drug or medicine which is poisonous, or which contains a poison; or to compound for sale at retail any physician's prescription, unless there be in charge a registered pharmacist under the provisions of this act: Provided, however, That a registered assistant pharmacist may be left in charge during the temporary absence of the registered pharmacist, which temporary absence shall be construed in conformity with the ruling of the board of pharmacy: And provided, That nothing in this act shall apply to, nor in any manner interfere with the business of a regularly licensed physician in compounding for and supplying his patients with such medicines as may seem to him proper in his professional capacity as a physician: And, provided, That nothing in this act shall apply to, nor in any manner interfere with the business of a general merchant in selling any of the following articles, to-wit: Medicines of secret composition, and which are advertised to the general public, and popularly known as patent or proprietary medicines, providing said medicines are not poisonous. Also concentrated lye, sodium carbonate, sodium bicarbonate, tobacco, spices, perfumes, flavoring extracts, borax and the following articles in original and unbroken packages, bearing the label of a known pharmaceutical manufacturer, wholesale druggist, or of a registered pharmacist, to-wit: Hive syrup, spirit of camphor, tincture of arnica, epsom salt, quinine sulphate, com-

pound cathartic pills, paris green, london purple, white hellebore, and such insecticides, disinfectants, dyestuffs and other chemicals as may be allowed by the board of pharmacy. (As amended by Acts 1907, p. 317; Burns' 1933, Sec. 63-1114.)

Penalties. Sec. 9. Any person violating any of the provisions of section 8 of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any such not exceeding one hundred dollars, nor less than five dollars for each offense. (Burns' 1933, Sec. 63-1115.)

[Acts 1929, p. 186.]

Effect of Acts as to Registered Apprentice Pharmacists. Sec. 4. Nothing contained in this act shall be construed to affect apprentice pharmacists who shall have registered prior to February first, 1929, nor to change the qualifications of such apprentice pharmacist so registered.

[Acts 1925, p. 65.]

(63-1116). **Authorization of Employment of Travelling Inspectors and Clerical Assistants.** Be it enacted by the General Assembly of the state of Indiana, That the Indiana board of pharmacy is hereby authorized to employ a travelling inspector or inspectors whose duty it shall be to enforce the provisions of the pharmacy laws and the anti-narcotic laws of this state. The secretary of the board, with the approval of the board, is hereby authorized to employ a clerk-stenographer and such other temporary clerical assistants as may be necessary to carry on the work of the board, and to purchase such office equipment and supplies as may be required by the board in discharging its duties. Suitable office quarters shall be provided by the state for the use of the board in the state house or elsewhere in the city of Indianapolis. The compensation of the travelling inspectors and the compensation of the clerk-stenographer shall be fixed by the board of Pharmacy with the approval of the director of the budget. The compensation of any clerical assistants shall be fixed by the board.

The compensation and expenses of the board of Pharmacy and its several employees shall be paid out of the fund in the state treasury arising from the fees collected by the board of pharmacy. (Acts 1925, Ch. 26, Sec. 1, p. 65 as amended Acts 1947, Ch. 326; Sec. 1, p. 1307.)

Compiler's Note. Under 63-1113 the compensation and expenses of the board may be paid, not only from the fund arising from fees, but also "from such sums as may be appropriated by the general assembly for that purpose."

Secretary—Bond and Duties—Allotment of Funds by Budget Committee. The Secretary of the Indiana board of pharmacy shall before entering upon the duties of his office, execute an official bond, approved by the governor payable to the state of Indiana in the penal sum of \$5,000.00, conditioned upon the faithful discharge of the duties of his office. The cost of the bond shall be paid as other expenses of the board. He shall keep a record of the doings of the board, which record shall contain the names and residences of all the applicants who have made application to the board for any license or permit which the board is authorized to issue and the action taken on each of said applications. The secretary of the board shall transmit to the treasurer of state all moneys received by him as such secretary which moneys shall be held by such treasurer for the use of said board in the payment of the salaries and expenses of the board. Any fund resulting from any increase in the amount of the fees for a drug store license or permit made at this session of the General Assembly shall upon receipt thereof during the fiscal years beginning July 1, 1947, and July 1, 1948, be subject to allotment by the State Budget Committee to the Indiana Board of Pharmacy upon the showing by said Board that additional funds are required for the operation of said board, and therefore such funds shall be paid out only in accordance with appropriations duly made under the laws pertaining to appropriations of public funds. (Acts 1925 as amended by Acts 1947, Ch. 325, this new Sec. 4 added, p. 1306.)

Compiler's Note. This section largely supercedes Sec. 6 of the act of 1899, which was not repealed, therefore Sec. 4 of the amended act of 1925 should be construed together with Sec. 6 of the act of 1899 (63-1112).

[Acts 1911, p. 443.]

Merchants, Rural Permits. Section 1. That in rural districts where there is no person licensed as a pharmacist within two miles thereof, the Indiana board of pharmacy may issue permits to dealers in general merchandise to sell such drugs and medicines as may be specified by the board, which permit shall run for two years, and the fee for such permit shall be three dollars. Such permit shall not be granted to any person or persons in any village, town or city the population of which exceeds five hundred, according to the last federal census. (Burns' 1933, Sec. 63-1118.)

Certificates, Refusal or Revocation, Charges, Appeal. Sec. 3. The Indiana board of pharmacy may refuse to grant certificates of registration or renewal of certificates of registration to any person guilty of a felony or gross immorality, or addicted to the use of alcoholic drugs or narcotic drugs to such an extent as to render him unfit to practice pharmacy. If any person holding a certificate to practice pharmacy shall be guilty of any of the above enumerated acts, or shall have procured a certificate by fraud or misrepresentation, said board may, after notice and hearing, revoke any certificate which has heretofore been or may hereafter be issued to him. A specific written charge, verified by affidavit, must be presented to the board making definite holder of such certificate. The board shall thereupon fix a time and place for the hearing of such charges, at which the person charged may appear and defend against the same. A copy of such charges together with a notice of the time and place fixed for the hearing shall be served upon the person so charged at least twenty days before the time set for the hearing of the same. If after such hearing the board revokes such certificate such order

shall be by said board and entered upon its record. If the board shall refuse to grant a certificate for any of the reasons above stated, it shall enter such refusal upon its record, together with a statement of the grounds for such refusal. An appeal may be taken from the action of the board to the circuit or superior court of the county wherein such person resides, in case of a refusal by said board to grant a certificate of registration, or a refusal of a renewal of a certificate of registration, or in case of a revocation of a certificate of registration, upon such person filing with the clerk of such court, within thirty days from the entering of such order of revocation or refusal by said board, and giving a sufficient bond in the sum of two hundred dollars, to be approved by said clerk, to secure the payment of costs of such appeal, should the appeal be determined against him. It shall thereupon be the duty of such clerk to notify the said board of the filing of such bond, and said board shall thereupon forward to said clerk the charges, together with a copy of the order of revocation, when there has been a revocation, or the application for a certificate and the copy of the order of refusal, where there has been a refusal to grant a certificate or a renewal thereof. The clerk of said court shall thereupon docket the same as a cause pending in said court. Said verified charges shall be treated as a complaint. The accused may plead said charges and issues may be formed thereon as in any civil case, and the same shall thereupon be tried by the judge of the circuit court. It shall be the duty of the prosecuting attorney of the circuit to which such county belongs to appear in such cause and represent the board. The only finding and judgment in such cases shall be guilty or not guilty, the same to be rendered separately as to each of the charges. If the finding and judgment of the court be not guilty as to each of such charges the same shall be by the clerk of said court certified to said board, and it shall thereupon make an order and set aside its order of revocation. If judgment of guilty of any of such charges be awarded in said cause, the cost of such pro-

ceedings shall be recovered of the accused, and a fee of ten dollars shall be taxed therein in favor of the prosecuting attorney, and the order of revocation made by said board shall be and remain in effect. During the pendency of such appeal the accused shall not be entitled to practice pharmacy by virtue of such certificate. Where the appeal is from a refusal to grant a certificate, or a renewal thereof, the same shall be heard upon the application and certified copy of the order of refusal, without any other issues, the same to be tried by the judge of said court, who shall, upon his finding, enter a judgment that the certificate shall or shall not be issued, as the facts may require, and thereupon the clerk of such court shall certify a copy of said judgment to said board of pharmacy. The prosecuting attorney shall represent the board in such an appeal, and if the court shall refuse the certificate, judgment shall be entered against the applicant for cost, including ten dollars fee for the prosecuting attorney. Appeals from the judgment of said court may be prosecuted to the supreme court, as in other civil cases, either by said board in its own name, or by the applicant or holder of such certificate, where the judgment may be against him. No fees other than the fees of its own witnesses shall be taxed against said board in any event. Where the applicant shall appeal from a refusal to grant a certificate the cause shall be docketed in the name of the applicant against the Indiana board of pharmacy. Where the certificate shall have been revoked the cause shall be entitled the Indiana board of pharmacy against A. B. (the holder of the certificate). (Burns' 1933, Sec. 63-1120.)

The provisions of this act which authorizes the state board of pharmacy to refuse to grant certificates to persons as pharmacists, or to revoke certificates that have been granted when persons who apply for or who have been granted certificates are guilty of felonies or gross immorality, are constitutional and a proper exercise of the police power of the state. Habitual sales of the intoxicating liquors by a druggist in violation of law, is such gross immorality as justifies the revocation of the license of such druggist. *Indiana Board, etc., v. Haag*, 184 Ind. 333.

Restoration of Certificate. Sec. 4. That in all cases where said board of pharmacy has

revoked the certificate of a pharmacist for any of the causes mentioned in section three of this act, such board of pharmacy upon a satisfactory showing by such pharmacist, whose certificate has been revoked, shall have the power to restore such pharmacist to his rights under his former certificate and permit him to practice pharmacy as though said certificate had not been revoked. (Burns' 1933, Sec. 63-1121.)

II. Drug Laws.

[Acts 1907, p. 218.]

Medicine Distribution. Section 1. That it shall be unlawful for any person, firm, corporation or association to distribute or cause to be distributed any sample of medicine from house to house in this state, or to give or cause to be given to any child under the age of sixteen years any such sample of medicine. The word medicine as herein used is hereby construed to mean any preparation of a medicinal nature intended for internal or external use. (Burns' 1933, Sec. 10-2530.)

Deleterious Substances. Distribution. Sec. 2. It shall be unlawful for any person, firm, corporation or association to distribute or cause to be distributed from house to house any substance, liquid or solid, which is deleterious to the life, limb or health of any person; or to give or cause to be given any such substance to any child under the age of sixteen years. (Burns' 1933, Sec. 10-2531.)

Penalty. Sec. 3. Any violation of any of the provisions of sections one (1) or two (2) shall be punished by a fine of not less than five dollars nor more than fifty dollars, to which may be added imprisonment in the county jail not to exceed six months. (Burns' 1933, Sec. 10-2532.)

Terms Defined. Sec. 4. The terms from "house to house" as herein used is hereby construed to include the premises, or yard, connected with any residence in this state, as well as any veranda, portico, or porch con-

nected with any house; or the house or residence itself. (Burns' 1933, Sec. 10-2533.)

This act is not unconstitutional because it denies equal privileges and immunities to a certain class of citizens; the act is a valid exercise of the legislative power for the protection of the health and lives of the inhabitants of the state. *Ayres v. State*, 178 Ind. 453.

[Acts 1911, p. 45.]

Drugs, Sale of—Limitations and Restrictions—Prescriptions—Records. Sec. 1. It shall be unlawful for any person, except a registered pharmacist, to retail, sell or give away any cocaine, alpha or beta eucaine, opium, morphine or heroin or any salt or any compound or derivative of any of the foregoing substances, or any preparation or compound, containing any of the foregoing substances, or any of their salts or compounds or derivatives, and they only upon the written prescription of a duly registered physician, licensed veterinarian or licensed dentist; and it shall be unlawful for any duly registered physician, licensed veterinarian or licensed dentist to write, issue, deliver or dictate either directly or indirectly any prescription to or for any habitual user of any drugs enumerated in this section; every prescription shall contain the name and address of the person for whom prescribed, and the date the same shall have been filled, and shall be permanently retained on file by the person, firm or corporation where the same shall have been filled; and it shall be filled but once, and no copy of it shall be taken by any person, except a copy may be taken by any board of pharmacy, or their agents, and the original shall at all times be open to the inspection of the prescriber, to the Indiana board of pharmacy or their agents, and all officers of the law; except, however, that such cocaine, alpha or beta eucaine, opium, morphine, heroin, or any salt, or any compound, or any derivative of the foregoing substances, or any of their salts or compounds or derivatives, may be lawfully sold at wholesale by a wholesale jobber or manufacturer upon the written order of a licensed pharmacist, duly registered, practicing physician, licensed veterinarian, or licensed dentist: and, *Provided*, That the wholesaler, jobber or manufacturer, shall affix or cause to be affixed to

the bottle, box, vessel or package containing the article sold, and upon the outside wrapper of the package, as originally put up, a label distinctly displaying the name and quantity of cocaine, alpha or beta eucaine, opium, morphine, heroin, or any salt or compound or derivative of any of the foregoing substances, sold, and the word "poison," with the name and place of business of the seller, all printed in red ink: and, *Provided, also*, That the wholesaler, jobber or manufacturer shall, before delivering any of the articles, make or cause to be made in a book kept for that purpose, an entry of the sale thereof stating the date of sale, the quantity, name and form in which sold, the name and address of the purchaser, and the name of the person by whom the entry is made; and the said book shall be always open for the inspection by the members of the state board of pharmacy or agents thereof, and the proper officers of the law, and said book shall be preserved for five years after date of the last entry therein: and, *Provided, also*, That nothing in this act shall apply to any preparation, patent, or proprietary containing not more than two (2) grains of opium, or one-fourth of a grain of its alkaloidal salts or the derivatives to the ounce, or admixtures of ipecac and opium commonly known as dover's powders, liniments, suppositories, ointments and plasters, plainly labeled "For external use only"; *Provided, also*, That nothing in this act shall be construed to prevent the legitimate administering of said drugs, their salts, compounds and derivatives by a duly registered practicing physician, duly licensed veterinarian or duly licensed dentist. (As amended by Acts 1913, p. 306 and Acts 1927, p. 643; Burns' 1933, Sec. 10-3502.)

Licensed physicians who keep drug stores can not sell the articles mentioned in this section except in pursuance of a prescription as herein provided. *Niswonger v. State*, 179 Ind. 653.

See also Sec. 581, Acts 1905, p. 584, Burns' 1926, Sec. 2672, which is apparently repealed by implication by the Act of 1911.

Penalty, Prosecutions, Revocation of License. Sec. 2. Any person violating any of the provisions of the foregoing section on the first offense shall be guilty of a misdemeanor and on conviction shall be fined not less than

twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and imprisoned in the county jail not less than ninety (90) days, nor more than one year; and for each succeeding offense, he shall be guilty of a felony and shall be fined not less than two hundred dollars (\$200.00), nor more than one thousand dollars (\$1,000.00), and imprisoned in the state prison or reformatory not less than one year, nor more than eight years, and if the person so offending shall have a license as a physician, veterinarian, dentist, or pharmacist, such license shall be revoked by the court trying said cause; and it shall be the duty of the prosecuting attorney of the county where such offense is committed to prosecute all persons violating provisions of this act upon proper complaint being made, and upon failure of such prosecuting attorney to act, it shall be the duty of the attorney-general of the State of Indiana, to prosecute any person violating the provisions of section one (1) of this act. It shall be the duty of the Indiana board of pharmacy to enforce the provisions of this act and to adopt such rules and regulations as it may deem best to carry out the provisions of this act. (As amended by Acts 1913, p. 306; Burns' 1933, Sec. 10-3503.)

[Acts 1929, p. 616.]

Cannabis Sativa and Indica — Possession of—Penalty. Sec. 1. It shall be unlawful for any person except a registered pharmacist, duly licensed physician, podiatrist, veterinarian or dentist to have any cannabis sativa and indica in his possession at any time except upon the written prescription of a duly licensed physician, podiatrist or dentist or veterinarian or when such drug has been dispensed by such physician, podiatrist, veterinarian or dentist. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding two hundred and fifty dollars to which may be added imprisonment for not more than one hundred eighty days. This act shall not be construed to apply to wholesalers, jobbers or dealers who sell or deal in cannabis sativa and indica

and who have otherwise complied with the provisions of the law regulating the sale of *cannibas sativa* and *indica*. (Burns' 1933, Sec. 10-3504.)

III. Drug Stores

[Acts 1927, p. 113.]

Drug Stores, Pharmacies—Permits Offense for Failure to Obtain. Sec. 1. From and after the first day of July, 1927, it shall be unlawful for any person, firm, corporation or co-partnership to operate, maintain, open or establish any drug store, pharmacy, pharmacy department or apothecary shop in this state without first having obtained a permit so to do from the Indiana board of pharmacy. (Burns' 1933, Sec. 63-1201.)

(63-1202) Application for Permit—Sec. 2. Any person, firm, corporation or co-partnership desiring to operate, maintain, open or establish a drug store, pharmacy, pharmacy department or apothecary shop in this state shall apply to the Indiana board of pharmacy for a permit so to do. The application for a permit shall be made on a form which shall be prescribed and furnished by the board of pharmacy and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such permit, the location, including the street number of such drug store, pharmacy, pharmacy department or apothecary shop, and such other facts as will show the applicant to be a person of good moral character. If the applicant desires to operate, maintain, open or establish more than one drug store, pharmacy, pharmacy department or apothecary shop, he shall make a separate application for a permit to operate, maintain, open or establish each such drug store, pharmacy, pharmacy department or apothecary shop. Each such application shall be accompanied by a fee of ten dollars. The fee for the transfer of title from one owner to a new owner shall be ten dollars. (Acts 1927, Ch. 40, Sec. 2, p. 113 as amended Acts 1947, Ch. 326, Sec. 2, p. 1307.)

(63-1203) Issuance and Refusal of Permits.

Sec. 3. As soon as practicable after the receipt of any such application, the board of pharmacy shall carefully examine the same to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the board of pharmacy shall find that any such application is not in proper form and does not contain the necessary and requisite information, they shall return such application for correction. If an application is found to be satisfactory, the board of pharmacy shall issue to the applicant a permit for each drug store, pharmacy, pharmacy department or apothecary shop for which an application is made. If an application, or the drug store, pharmacy, pharmacy department or apothecary shop for which application is made, is found to be unsatisfactory, or if upon proof that such drug store, pharmacy, pharmacy department or apothecary shop has or had been operated in violation of this act, the board of pharmacy may refuse to issue a permit and shall notify the applicant in writing of its decision and reasons therefor. (Acts 1927, Ch. 40, Sec. 3, p. 113 as amended Acts 1947, Ch. 326, Sec. 3, p. 1308.)

(63-1204) Term and Renewal of Permits.

Sec. 4. All permits shall be so issued as to expire on the thirty-first day of December of each calendar year. On or before the first day of January of each year, every person, firm, corporation or co-partnership, having a permit, shall apply to the board of pharmacy for a renewal permit for the calendar year next ensuing. No permit shall lapse prior to the thirty-first day of January of the year next following the year for which such permit was granted. The fee for a renewal permit shall be \$5.00. (Acts 1927, Ch. 40, Sec. 4, p. 113 as amended Acts 1947, Ch. 326, Sec. 4, p. 1309.)

Rules and Regulations. Sec. 5. The board of pharmacy is hereby authorized to prescribe and promulgate such rules and regulations as may be deemed necessary for the proper enforcement of this act. (Burns' 1933, Sec. 63-1205.)

Appeal from Refusal or Revocation. Sec. 6. Any person, firm, corporation or co-partnership, who has been refused a permit applied for under the provision of this act, or whose permit has been revoked, may appeal from the decision of the board of pharmacy to the circuit or superior court of the county within which such drug store, pharmacy, pharmacy department or apothecary shop is located, at any time within thirty days after the date of receipt by the applicant of the decision of the board of pharmacy, or within thirty days after the date of the receipt of the notice by the person who held such permit of the revocation of such permit, by giving bond, to be approved by the clerk of the court in the sum of three hundred dollars, conditioned to pay all costs if the decision of the court shall be determined against him, them or it. Pending such appeal, such person, firm corporation or co-partnership shall have the right to continue to operate such drug store, pharmacy, pharmacy department or apothecary shop. (Burns' 1933, Sec. 63-1206.)

(63-1207) Display of Certain Titles. Sec. 7. Any person not legally licensed as a registered pharmacist by the Indiana board of pharmacy who does not have in his continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana board of pharmacy, and no firm, corporation or co-partnership who do not have in their continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana board of pharmacy, shall not take, assume, exhibit, display or advertise by any media, the title "drug," "drugs," "drug store," "pharmacy," "pharmacy department," "apothecary," or "apothecary shop," or any combination or combinations of such titles, or any other title or description of like import, or any other term or title designed or intended to take place of any such title or term. (Acts 1927, Ch. 40, Sec. 7, p. 113 as amended Acts 1947, Ch. 326, Sec. 7, p. 1309.)

Qualifications of Applicants. Sec. 8. Any person not legally licensed as a registered pharmacist by the Indiana board of pharmacy who does not have in his continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana board of pharmacy, and no firm, corporation or co-partnership who do not have in their continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana board of pharmacy, shall not be eligible to apply for or receive a permit to operate or maintain a drug store, pharmacy, pharmacy department or apothecary shop, as hereinbefore provided in this act. (Burns' 1933, Sec. 63-1208.)

(63-1209) Revocation or Suspension of Permits. If any person, firm, partnership or corporation holding a permit to operate a drug store, pharmacy, pharmacy department or apothecary shop shall be guilty of violating any of the provisions of this Act, or shall have procured a license by fraud or misrepresentation, said board may after notice and hearing, revoke, or suspend for not more than thirty days, any permit which has heretofore or may be hereafter issued to the holder of said permit. A written verified charge must be presented to the board making definite and specific charges of such facts against the holder of such permit. The board shall thereupon fix a time and place for the hearing of such charge or charges, at which time the holder of such permit may appear and defend against said charges. A copy of such charges, together with notice of the time and place fixed for the hearing, shall be served by registered mail, with return receipt requested, upon the person so charged at least fifteen days before the time set for the hearing of the same. If after such hearing the board revokes or suspends such permit, such order shall be by said board entered upon its record and shall become effective upon such entry. Any such order shall remain in effect unless and until set aside by a Court upon the review had under the pro-

visions of this or the applicable law. A review may be had of the decision, order or determination of the board by filing a petition therefor in the circuit or superior court of the County within which such drug store, pharmacy, pharmacy department or apothecary shop is located within fifteen days after the date of the decision, order or determination of the board of pharmacy, and the filing of a bond with said petition for review in the penal sum of not less than \$300.00 conditioned to duly prosecute said proceeding for review, to pay all costs if the decision of the court shall be determined against such petitioner and to abide by the order, decision or determination of the board if the same is not set aside, with surety to the approval of the court. An appeal may be taken from the decision of the circuit or superior court as appeals are taken in civil causes. If any Act is passed by this Session of the General Assembly relating to administrative adjudications by state agencies, the provisions of that Act shall apply to the hearings, orders and determinations and review thereof of the board of pharmacy and said Act shall apply whether effective before or after this Act. (Acts 1927, Ch. 40, Sec. 9, p. 113 as amended Acts 1947, Ch. 326, Sec. 9, p. 1309.)

Penalty. Sec. 10. Any person, firm, corporation or co-partnership, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars, and each and every day that such violation shall continue shall constitute a separate and distinct offense. (Burns' 1933, Sec. 63-1210.)

Pending Litigation — Effect as to Sale of Certain Medicines and Articles. Sec. 12. This act shall not be construed to affect pending litigation and nothing in this act contained shall apply to, nor in any manner interfere with the business of a general merchant in selling any of the following articles, to-wit: Medicines of secret composition, and which

are advertised to the general public, and popularly known as patent or proprietary medicines, providing said medicines are not poisonous. Also concentrated lye, sodium carbonate, sodium bicarbonate, tobacco, spices, perfumes, flavoring, extracts, borax and the following articles in original and unbroken packages, bearing the label of a known pharmaceutical manufacturer, wholesale druggist, or of a registered pharmacist, to-wit: Hive syrup, spirit of camphor, tincture of arnica, epsom salt, quinine sulphate, compound cathartic pills, paris green, london purple, white hellebore, and such insecticides, disinfectants, dyestuffs and other chemicals as may be allowed by the board of pharmacy. (Burns' 1933, Sec. 63-1211.)

Constitutional Effect. Sec. 13. If any provisions or any section of this act shall be held void or unconstitutional, all other provisions and all other sections of the act, which are not expressly held to be void or unconstitutional, shall continue in full force and effect. (Burns' 1933, Sec. 63-1212.)

IV. Uniform Narcotics Drug Act.

[Acts 1935, p. 1351.]

Definitions. Sec. 1. That the following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, co-partnership, or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by the law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written order, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange, or gift, or offer, therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture,

salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) "Cannabis" includes the following substances under whatever names they may be designated: (a) The dried flowering or fruiting tops of the pistillate plant *Cannabis Sativa* L., from which the resin has not been extracted, (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted.

(14) "Narcotic drugs" means coca leaves, opium, cannabis and every substance neither chemically nor physically distinguishable from them.

(15) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(16) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the state board of pharmacy.

(17) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(18) "Registry number" means the number assigned to each person registered under the federal narcotic laws.

Acts Prohibited. Sec. 2. Acts Prohibited. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, compound or use any narcotic drug or drugs except as authorized in the laws of the United States or of the State of Indiana, or for any person to be found in a public place under the influence of narcotic drugs.

Manufacturers and Wholesalers. Sec. 3. Manufacturers and Wholesalers. No person shall manufacture, compound, mix, cultivate,

grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of pharmacy.

Qualification for License. Sec. 4. Qualification for License. No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the state board of pharmacy:

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, cocoa leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The state board of pharmacy may suspend or revoke any license for cause.

Sale On Written Orders—To Whom. Sec. 5. Sale on Written Orders. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler, or apothecary.

(b) To a physician, dentist, or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as re-

quired by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port: *Provided*, Such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains nar-

cotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this act.

Sales By Apothecaries. Sec. 6. Sales by Apothecaries. [(1)] An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty per cent of the complete solution, to be used for medical purposes.

Professional Use of Narcotic Drugs. Sec. 7. Professional Use of Narcotic Drugs. (1) A

physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

(2) A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

(3) Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian, shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

Preparations Exempted. Sec. 8. Preparations Exempted. Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or of any of its salts, (e) not more than one-half of a grain of extract of Cannabis; nor more than one-half of a grain of any more potent derivative or preparation of Cannabis; (f) and not more than one of the drugs named above in clauses (a), (b), (c), (d), and (e).

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments,

ointments, or preparations, except that this act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

The exemptions authorized by this section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense, or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparations or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling is for the purpose of satisfying addiction.

(b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this act.

Record to be Kept. Sec. 9. Record to be Kept. (1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local

application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients: *Provided*, That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or any of its salts, or (e) one grain of extract of Cannabis or one grain of any more potent derivative or preparation of Cannabis, or (f) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 8 of this act, shall keep a record showing the quantities and kinds thereof sold, or disposed of otherwise, in accordance with the provisions of subsection 5 of this section.

(5) The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the

kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in producible *Sativa L.* from which the resin has not been extracted, received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

Labels. Sec. 10. Labels. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this act, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing

his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

Authorized Possession of Narcotic Drugs by Individuals. Sec. 11. Authorized Possession of Narcotic Drugs by Individuals. A person to whom or for whose use any narcotic drug has been prescribed, sold or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of section 5 of this act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

Persons and Corporations Exempted. Sec. 12. Persons and Corporations Exempted. The provisions of this act restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

Common Nuisance. Sec. 13. Common Nuisance. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using

narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

Narcotic Drug to be Delivered to State Officials. Sec.14. Narcotic Drugs to be Delivered to State Officials. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

(b) Upon written application by the state board of pharmacy, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state board of pharmacy, for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within this state, not operated for private gain, the state board of pharmacy may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The state board of pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

(d) The state board of pharmacy shall keep a full and complete record of all drugs received and all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and

to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

Notice of Conviction Sent to Licensing Board. Sec. 15. Notice of Conviction Sent to Licensing Board. On the conviction of any person of the violation of any provision of this act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the court, may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

Records Confidential. Sec. 16. Records Confidential. Prescriptions, orders, and records, required by this act, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

Fraud or Deceit. Sec. 17. Fraud or Deceit. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug,

(a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this act.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 8 of this act, in the same way as they apply to transactions under all other sections.

Exceptions and Exemptions, Negatived. Sec. 18. Exceptions and Exemptions, Negatived. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

Enforcement and Co-operation. Sec. 19. Enforcement and Co-operation. It is hereby made the duty of the state board of pharmacy, its officers, agents, inspectors, and representatives, and of all peace officers within

the state, and of all prosecuting attorneys, to enforce all provisions of this act, except those specifically delegated, and to co-operate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs.

Penalties. Sec. 20. Penalties. Any person violating any provision of this act shall be guilty of a misdemeanor and shall upon conviction be punished, for the first offense, by a fine not exceeding one hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, and for any subsequent offense, such person shall be guilty of a felony and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not exceeding two years, or by both such fine and imprisonment.

Effect of Conviction Under Federal Act. Sec. 21. Effect of Conviction Under Federal Act. No person shall be prosecuted for a violation of any provision of this act if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this act.

Constitutionality. Sec. 22. Constitutionality. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Interpretations. Sec. 23. Interpretations. This act shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it.

Repeal. Sec. 24. Repeal. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

Name of Act. Sec. 25. Name of Act. This act may be cited as the Uniform Narcotic Drug Act.

Effect of Captions. Sec. 26. No caption of any section or set of sections of this act shall in any way affect the interpretations of this act or any part thereof.

Effective Date. Sec. 27. This act shall take effect on July 1, 1935.

[Acts 1933, p. 1122.]

Search Warrants. Sec. 3. If any person shall make an affidavit before any justice of the peace or the judge of any court that he has reason to believe that any narcotic drug is kept or deposited, by a person named therein, in any store, shop, warehouse, building, vehicle, vessel, watercraft, or any other place whatsoever, such person being other than a person lawfully entitled to receive, possess or dispense such drugs, such court or judge or justice, if it appears that there is probable cause to believe that the allegations set forth in such affidavit are true, shall issue a search warrant to a sheriff, deputy sheriff, town marshal, police officer or constable, commanding such officer to search the premises where it is alleged that any of such drugs is kept or deposited, and to seize and securely keep such drug until final action, and to arrest the person in whose possession such drug is found, together with all persons present where such drug is found, and to return the warrant forthwith with his doings thereon, to a court of competent jurisdiction in the county in which such drug is alleged to be kept or deposited. If, after such notice as the court having jurisdiction orders, it shall appear that any drug seized, as hereinbefore provided, was, at the time of the making of the affidavit, unlawfully in the possession of the person alleged therein, the court shall order that such drug so seized be forfeited to the state and shall order such drug to be destroyed or sent to a department of public health or an incorporated hospital. Possession of such drug shall be prima facie evidence that such possession was in violation of law.

RULES AND REGULATIONS

Regulation 1

Section 1—Examinations will be held only at such times as are designated by the Board of Pharmacy, continuing from day to day until completed, and at such places as the board may select.

Sec. 2—Each applicant for examination shall furnish such evidence as may be required to establish his eligibility to take the examination.

Sec. 3—Application forms are obtainable upon request from the secretary of the board (Secretary, Indiana Board of Pharmacy, Indianapolis, Indiana.)

Sec. 4—Applications for examination, with fee, must be in the hands of the secretary not less than ten (10) days prior to the first day of the examination for which application is being made.

Sec. 5—Applications for examination shall be written in ink or typewritten, properly sworn to, and shall show no erasures or changes. Acknowledgements of receipts of application and fee will be sent by the secretary to the applicant at which time the applicant will also receive notice of the date and place of the first subsequent examination.

Sec. 6—All applicants for examination and reciprocal registration must present a recent bust photograph of not less than two (2) inches square.

Sec. 7—An applicant, having been notified by the secretary of the time and place of the first subsequent examination, and failing to appear for examination, shall forfeit his fee to the board; except in case of illness of the applicant or illness or death of any member of his family, or of his employer's family, in which case notice by letter or telegram shall be in the hands of the secretary on or before the opening day of the examination for which said applicant has applied.

Sec. 8—All examinations shall be conducted in public and in the English language and shall consist of written examinations in Pharmacy, Materia Medica (which subject heading may include questions under Bacteriology, Toxicology or Posology), Chemistry and Pharmaceutical and Chemical Mathematics. Practical Laboratory work, which shall consist of compounding selected pharmaceutical preparations will be given with oral examination.

Sec. 9—Applicants for registration having all requirements for registration except that of age or of practical store experience may, at the discretion of the board, take the regular examination in Pharmacy, Arithmetic, Materia Medica and Chemistry at any regular board examination and, when he or she shall have met all necessary requirements, may appear before the board at any regular examination for practical and oral examination in Practical Laboratory work.

Sec. 10—Applicants who have successfully passed the written portion of the examination to become registered pharmacists and who, on account of lack of age or of experience, were unable to take the complete examination shall be required to pay a filing fee of one dollar (\$1.00) at the time of filing evidence of age or experience qualifying them to complete their examination.

Sec. 11—To successfully pass an examination the applicant must attain a general average of not less than seventy-five percent (75%), a grade of not less than seventy-five percent (75%) in Laboratory and Oral, and not less than sixty percent (60%) in any other subject.

Sec. 12—In the case of an applicant having failed in an examination and desiring to take a future examination he shall file a new application, but may refer to the former application as to affidavits or data concerning his experience in a drug store or as to his attendance at a college of or school of pharmacy, but all other data asked for in such application shall be filled out anew.

Sec. 13—A candidate for registration, failing to make sixty percent (60%) in not more than two (2) written subjects or failing to make a general average of seventy-five percent (75%), may be permitted to take the two lowest graded subjects again at the examination next following the examination in which he failed.

Sec. 14—Experience acquired in the dispensing department of any hospital or dispensary, where physicians' prescriptions are compounded, and which dispensing department or dispensary is in charge of a registered pharmacist, provided such experience is the equivalent of experience obtainable in a drug store or pharmacy operating in charge of a registered pharmacist, will be accepted the same as experience had in a drug store or pharmacy.

Sec. 15—Any misrepresentation made or any fraud perpetrated in an application for examination, or in the examination, shall be deemed sufficient cause for the refusal of such application, or to complete such examination, and if such misrepresentation or fraud is not discovered until later than at the time of the submission of such application, or until the completion of such examination, it shall be deemed sufficient cause for the dismissal from the examination, or the refusal to grant a certificate, or the revocation of the certificate if already issued and the fee paid with such application for such examination shall be forfeited.

Sec. 16—The conditions of misrepresentation or fraud set out in Sec. 15, these regulations, shall apply to any misrepresentations or frauds perpetrated by any candidate during any examination.

Regulation 2

Sec. 1—Certificates of registration shall be conspicuously displayed in the drug store, pharmacy, hospital, dispensary or other place where drugs are sold or dispensed and where the owner or holder thereof is in employment. Failure to comply with this regulation shall be deemed sufficient cause for suspension or revocation of the certificate.

Sec. 2—The display of a certificate of registration as a pharmacist in a drug store, pharmacy, hospital, dispensary or other place where drugs are sold or dispensed, and in which place the owner and holder of such certificate is not in bona fide employment, shall be deemed an illegal use of such certificate, and upon satisfactory proof of such illegal use, such certificate will be revoked.

Sec. 3—All holders of certificates as registered pharmacist or registered assistant pharmacist shall notify the secretary of any change of address. This board holds that in sending notice of expiration of certificate with renewal request to the last known address of the holder it has done its duty.

Sec. 4—The board has no way of knowing whether or not a notice reaches its destination and therefore, when a notice has been mailed to the person concerned, the duty of the board has been performed.

Sec. 5—On receipt of a duly executed affidavit showing that a certificate of registration or a drug store permit has been lost or destroyed, the board shall issue a duplicate and shall charge a fee of one dollar (\$1.00) for each duplicate certificate of registration and a fee of fifty cents (\$0.50) for each duplicate drug store permit.

Regulation 3

Sec. 1—No certificate as registered apprentice pharmacist shall be issued except to a person fourteen (14) years of age or over.

Sec. 2—If an applicant for examination for certificate as registered pharmacist is not a graduate of a recognized school of pharmacy, but was registered as an apprentice pharmacist prior to January 1, 1920, said applicant is eligible for examination, provided that he meets all other requirements.

Sec. 3—Practical experience acquired prior to registration as an apprentice pharmacist is not credited; attendance at a recognized school of pharmacy prior to registration as an apprentice pharmacist is credited.

Regulation 4

Sec. 1—All applicants for reciprocal registration must appear with a certified photograph of themselves before the board, or one of its members, for oral examination before license will be granted.

Sec. 2—All applicants applying for reciprocity in the state of Indiana from other states are required to make application on the official application blanks issued by the National Association of Boards of Pharmacy.

Sec. 3—Any person who has been legally registered in Indiana as a registered pharmacist by examination and through virtue of his certificate as such, has been granted reciprocal certificate in another state, may restore his original Indiana certificate, if such should become lapsed for a period of five years or more, by reciprocity and on payment of the current reciprocal fee.

Regulation 5

Sec. 1—Applicants for reciprocity will be admitted to Indiana only if the requirements of the state from which they came, at the time of securing registration, were equal to the requirements of the state of Indiana at that time.

Sec. 2—On and after the beginning of the school year 1925-26 the board of pharmacy shall recognize a school or college of pharmacy to be in good standing if such school or college of pharmacy requires the completion of a three (3) year course of instruction for graduation; and on and after the beginning of the school year 1932-33 the board of pharmacy shall recognize a school or college of pharmacy to be in good standing if such school or college of pharmacy requires completion of a four (4) year course of instruction for graduation, and whose course of instruction and equipment and professional staff complies with the statutes of the state of Indiana.

Regulation 6

A drug store, pharmacy, pharmacy department or apothecary shop shall be defined to

mean any place where U. S. P. or N. F. preparations, drugs, chemicals or medicines of non-secret composition which are not advertised to the general public by the manufacturer and classified as prescription or pharmaceutical specialties are carried in stock and sold or intended for sale at retail and any place where physicians' prescriptions are compounded or potent or dangerous drugs are dispensed.

The drug store must be a suitable, well lighted and well ventilated room or department with clean and sanitary surroundings and devoted primarily to the compounding of prescriptions. The space should be equipped with necessary counters, tables, drawers, shelves and storage cabinets; a sink with hot and cold water or some facilities for heating water and proper sewage outlet; poison cabinet; narcotic drug cabinet and refrigeration storage equipment if biologicals are stocked. There must be in the store the current editions of the U. S. P. and N. F., or the latest edition of the U. S. Dispensatory. The stock of drugs must include such U. S. P. and N. F., and other commonly used chemicals, drugs and preparations sufficient to compound all but unusual prescriptions. The necessary equipment for dispensing and compounding must include the following:

Graduates—capable of accurately measuring volumes from one minim to one pint and from 1 cc to 500 cc.

Mortars and pestles—at least two assorted sizes.

Spatulas—assorted sizes.

Funnels—at least three assorted sizes.

Pill tile or ointment slab.

Corks—assorted sizes.

Filter paper.

Powder papers.

Empty capsules—various sizes.

Ointment jars—various sizes.

Prescription files.

Bottles—all necessary sizes.

Labels—conforming with federal and state laws.

Boxes—capsule and powder.

Prescription scales, accurate and sensitive to half grain or less.

Weights—Apothecary, metric and avoirdupois from half grain to one pound or equivalent.

Regulation 7

Sec. 1—In case of change of ownership of a drug store the original permit becomes void and must be returned, by the new owner, with application to the board of pharmacy for a new permit.

Sec. 2—All applications for a permit to conduct a drug store will require the action of at least a quorum of the board.

Sec. 3—When the proprietor of a pharmacy, drug store or apothecary shop has taken out a drug store permit and subsequently moves the store to another location in the same city or town, he may have the change in location certified upon the face of the permit without the payment of another fee

Regulation 8

The term "Known Pharmaceutical Manufacturer" shall be considered to be a person, firm or corporation who or which has in his or its continuous employ one or more fully registered pharmacists licensed by the state board of pharmacy of the state in which the manufacturer is located. This regulation shall be in full effect as regards a person, firm or corporation who or which prepares or creates a new package of pharmaceutical preparations manufactured by another.

Regulation 9

Sec. 1—Application for the purchase of such inhibited drugs as are named or referred to in the federal anti-narcotic law and in the Indiana anti-narcotic law, if made on the regulation purchase blanks, as provided by the revenue department of the United States Government for such purpose, and if signed by a licensed and registered pharmacist, physician, dentist or veterinarian will be recognized as an order complying with Indiana law.

Sec. 2—Under the Indiana Acts of 1935, Chapter 280, the Indiana board of pharmacy will hold that the duplicate official government order blank is sufficient record, provided that the date of receipt of narcotics be entered on the blank.

Regulation 10

(a) The Board of Pharmacy of the State of Indiana hereby classifies as a non-drug product any vitamin product which is marketed only for the purpose of supplementing the diet, and the label supplies adequate information as to the normal intake of each vitamin contained in the preparation, and the amount of each such vitamin contained in the product, and if the same be not held out for the treatment of any disease but merely as a food accessory, and if the principal label of such product bears the additional conspicuous statement to wit: "Not For Medicinal Use."

(b) Any vitamin preparation which is held out to be a treatment for any deficiency disease, or for the correction of any symptom of disease, or for the prevention, mitigation or cure of disease either by direct statement or by inference, is hereby classified as a drug or medicine within the meaning of the pharmacy act, and, as such, may be sold only by drug stores licensed by the Indiana board of pharmacy, such drug store to be under the supervision of a registered pharmacist.

Regulation 11

Whereas, from present information "D.D.T." (Dichloro-Diphenyl-Trichlorethane) has toxic effects if used without precautions, the Indiana board of pharmacy promulgates the following rules for the protection of persons and animals:

D.D.T. and preparations containing D.D.T. may be sold by general merchants in original and unbroken packages only, which packages bear the label of a known chemical, pharmaceutical or insecticidal manufacturer and bear the following statements on the label:

(1) The label shall name and state the percentage strength of active ingredients.



(2) Labels should clearly state the purpose for which intended and give clear and adequate directions for use.

(3) A caution on the label shall contain these statements, as recommended by Department of Agriculture Bulletin of September 1, 1945, and entitled "Labelling insecticides containing D.D.T., revised, to-wit:

(a) This solution if brought into repeated or prolonged contact with the skin can cause toxic symptoms.

(b) Avoid excessive inhalation and skin contact.

(c) In case of spillage on skin, wash with soap and water.

(d) Avoid contamination of foodstuffs.

(4) It is recommended that caution labels be affixed to the package with the word caution in red against a contrasting background.

(5) It is recommended that the white household powders and dusts be colored a distinctive color for the protection of human life.

Regulation 12

The Indiana board of pharmacy at its regular meeting held at the office of said board at the state house in Indianapolis, Indiana, on June 6, 1945, and at which meeting all members were present, unanimously adopted the following rule:

"The Indiana Board of Pharmacy recognizing that the unrestricted sale of poisons without adequate records thereof being made is detrimental to the health and welfare of both persons and animals, and being cognizant of the fact that the recording of sales of such poisons lead in the prevention of crimes, and, pursuant to the authority conferred by statute (Sec. 63-1101 et sec., Burns' 1933), hereby adopts the following proposed rule, to be promulgated pursuant to the provisions of Chapter 120 of the Acts of 1925, to-wit:

'(a) The Indiana Board of Pharmacy hereby directs that immediately upon this rule becoming effective, all pharmacists being holders of a license issued by the Indiana Board of Phar-

macy and who practice as a pharmacist shall keep a permanent record of all sales of violent poisons, in a record book, which record book shall be kept for a period of two years from the date of the last entry, at the drug store in which such pharmacist is employed or operating.'

'(b) This record shall show the date of purchase, name and address of the purchaser, name and quantity of poisonous substance, its proposed use as stated by the purchaser and the name of the person actually making the sale. This record shall contain, in a place to be provided therefor, the signature of the person making such purchase. Such record shall be permanent and shall be open to inspection to authorized police officers of the city, county or state and to the Indiana Board of Pharmacy and its inspectors.'

'(c) The sale of the following violent poisons must be included in such record:

- (1) Arsenic trioxide.
- (2) Mercury bichloride.
- (3) Phenol and its preparations containing more than 10% of phenol by weight.
- (4) Hydrocyanic acid and metallic cyanides.
- (5) Nux vomica and its preparations.
- (6) Strychnine and its salts.'

'(d) The provisions of this rule shall not apply to: (1) sales or deliveries made to or by a licensed Doctor of Medicine, dentist or veterinarian, (2) sales or deliveries pursuant to a prescription of a licensed physician, dentist or veterinarian, where the prescription is retained in the files of the druggist.'

'(e) Any pharmacist who shall willfully violate any of the provisions of this rule shall be deemed guilty of gross immorality within the meaning of the provisions of Sec. 63-1120, Burns' 1933, and such guilt may constitute just reason for the revocation of such pharmacist's license so issued by this board, or may constitute reason for the refusal to renew any such pharmacist's license issued by this board to such pharmacist.'

"The Secretary of the Indiana Board of Pharmacy is hereby directed to cause the above

rule to be duly published as provided by Chapter 120 of the Acts of 1945, for a public hearing to be held at Room No. 307, State House, Indianapolis, Indiana, at 2 p. m., on the 11th day of July, 1945, and said secretary shall keep on file in the office of said secretary, for public inspection, at least five (5) copies of this proposed rule."

E. A. O'HARROW,
President, Indiana Board of Pharmacy.

RUSSELL B. ROTHROCK,
Secretary, Indiana Board of Pharmacy.

PREScription SALE ONLY

The Division of Food and Drugs of the Indiana State Board of Health has pointed out that the Indiana Food, Drug and Cosmetic Act places upon the manufacturer and the distributor—including the retail pharmacist—the responsibility for properly safeguarding the marketing of drugs which may be dangerous to the purchaser if distributed without restriction. Obviously it is impossible to list all drugs which may be dangerous, since not only the compositions but also the directions for use and the conditions in which their use is recommended may have a very definite bearing upon the question of safety or danger. Therefore, to a considerable extent, each drug must be considered on its own merits. The manufacturer or distributor is, or should be, in a position to reach a determination with respect to his various items of merchandise and in case of doubt, it is always possible to proceed in the interest of the consumer. As examples of drugs which are considered dangerous when distributed for use otherwise than on prescription the following have been mentioned:

Acetanilide—Medicines that provide a daily intake of more than 5 grains, or more than 2½ grains during any three hour period.

Acetophenetidin — Preparations containing more than 15 grains per daily dose.

Aconite—

Aminopyrine and derivatives.

Anthelmintics and derivatives.

1. Carbon Tetrachloride.
2. Male Fern (*Aspidium*).
3. Santonin.
4. Tetrachlorethylene.
5. Thymol.
6. Wormseed Oil (*Chenopodium* Oil).

Antipyrine—Preparations providing more than 15 grains per daily dose.

Barbituric Acid, derivatives and preparations.

Cantharides—For internal use.

Bromides — Preparations providing more than 30 grains per day, or more than 15 grains during any three hour period.

Bromide and Acetanilide Combinations — Preparations which provide more than 15 grains per daily dose of sodium bromide and 5 grains of acetanilide, or more than $7\frac{1}{2}$ grains of sodium bromide and $2\frac{1}{2}$ grains of acetanilide during any three hour period. Comparable amounts of other bromide preparations are subject to the same restrictions.

Chrysarobin or Goa Powder—

Chrysophanic Acids—

Cinchophen, Neocinchophen and other Cinchophen Derivatives—

Colchicine—

Colchicum—

Digitalis and other pharmacologically related drugs in therapeutically effective proportions.

Emetine—

Epinephrine—Solutions of 1% or stronger.

Ipecac—Daily dosage greater than 10 grains.

Mercury—Bleach preparations which contain large amounts of ammoniated mercury and such preparations containing more than 0.2% bichloride of mercury or comparable amounts of other mercury compounds. (Products which contain 5% or less of ammoniated mercury may not violate the statute if they bear conspicuous warnings and adequate directions for use.)

Penicillin Preparations—

Phosphides—

Phosphorous—

Radium—

Squill—Also other pharmacologically related drugs in therapeutically effective preparations.

Strophanthus—Also other pharmacologically related drugs in therapeutically effective proportions.

Strychnine—Daily dose greater than $1/20$ grain.

Sulfonamides and Derivatives—The following sulfonamides may be sold only on a physician's prescription:

1. All tablets, no exceptions, available to the medical profession containing any sulfonamides or derivatives, viz.:

- a. Sulfanilamide.
- b. Sulfathiazole.
- c. Sulfapyridine.
- d. Sulfadiazine.
- e. Sulfaguanidine.

2. Ampoules containing any sulfonamides or derivatives.

3. Powders containing any sulfonamides or derivatives, including those for topical application.

4. Lozenges containing any sulfonamides or derivatives.

Over-Counter Sale Permitted Under Certain Conditions.

If the label on the following products bears the legend, "to be used only by or under the direct supervision of a physician," or a similar legend, they cannot be sold except on a physician's prescription. If, however, you possess a guaranty as provided for in Sec. 6 of the Indiana Food, Drug, and Cosmetic Act stating that the product conforms to the requirements of the Act, and if such product is dispensed in the original package bearing a label giving adequate directions for use and adequate warnings, then, and only then, can the following be legally sold without a prescription:

1. Bandages containing sulfonamides or derivatives.

2. Nose Drops containing sulfonamides or derivatives.

3. 5%, 10% and 20% sulfonamide and sulfonamide derivative ointments, creams and ophthalmic ointments.

The U. S. Food and Drug Administration, under authority of the Federal Food, Drug and Cosmetic Act, has ruled that sulfonamide ointments and nose drops intended for distribution to the general public for self use are considered as "new drugs" and that term is

defined in the Federal Act. Therefore, only these products approved for general distribution will bear safe and adequate directions for use and adequate warnings. Where such approval has not been granted under the Federal or Indiana Act, the product must be sold only on a physician's prescription as directed on the label.

Tansy and Tansy Oil—

Thiocyanates—

Thyroid and Derivatives—

No prescription for any of the above mentioned products may be refilled unless authorized by the physician. The pharmacist may be authorized by the physician to refill a prescription for a dangerous drug either verbally, by a written order, or by telephone. The original prescription should show the date and kind of order authorizing the refill.

Products bearing the legend "To be used only by or on the prescription of a physician," or a similar legend, may not be sold except on a prescription.

THE FEDERAL NARCOTIC LAW

By Paul G. Brigham, Indiana Federal
Narcotic Inspector

Introduction

Narcotic drugs covered by the law are those included within the classification—opium, coca leaves and any compound, salt, derivative or preparation thereof. By an amendment to the Federal law, approved July 1, 1944, Isonipeccaine, a synthetic substitute for morphine, was added to the classification. Isonipeccaine is therefore subject to the regulations and laws as is morphine for which it is substituted. Modern narcotic drug legislation is the result of the efforts of our government to give full effect to its obligations under international conventions to which it is a party.

Federal Narcotic Laws

The two principal federal narcotic laws are the Act of May 26, 1922, known as the Narcotic Drugs Import and Export Act, as amended and the so-called Harrison Narcotic Law, now incorporated in the Internal Revenue Code. The first law mentioned authorized the importation of such quantities, only of, opium and coca leaves as the Commissioner of Narcotics finds necessary to provide for medical and scientific needs. Importation of any form of narcotic drugs except such limited quantities of crude opium and coca leaves is prohibited. Exportation of manufactured drugs and preparations is permitted under a strict control system.

The Harrison Narcotic Law as re-enacted is designed to direct the manufacture and distribution of narcotic drugs through medical channels to consumption use for medical purposes. This law and the regulations pertaining thereto directly affect the physician and the pharmacist and will therefore be discussed here.

Qualification to Register

A physician or druggist who intends to practice his profession and administer or dispense

narcotics must apply for registration, under the Harrison Law, with the Collector of Internal Revenue of the district in which he intends to practice and must pay the appropriate occupational tax. Before being entitled to such registration he must be lawfully entitled to practice his profession in the state or territory in which the application is made and in which he intends to practice. The right to register and pay tax under the Federal law depends on the right to dispense under State law.

Registration

A person desiring to register shall execute and file with the Collector for the district in which he intends to practice, an application for registration on Form 678. These application forms may be obtained from the Collector upon request. The application must be executed and approved by the Collector before activity is commenced. Form 678 shall be executed and filed on or before July 1st and annually thereafter as long as liability is incurred.

Inventory Required

Every person making application for registry or re-registry in any class except classes 1 and 2 shall, as of December 31st, preceding the date of his application or any date between December 31st and the date of applying for registration or re-registration, prepare under oath or affirmation, in duplicate, an inventory of all narcotic drugs and preparations on hand at the time of making the inventory. The inventory shall be prepared on Form 713, copies of which may be obtained from the Collector upon request. The original inventory shall be forwarded to the Collector with the application for registry and the duplicate shall be kept on file for a period of two years. If the taxpayer is engaged in business in more than one class, a separate inventory shall be prepared for each class.

Special Tax Stamp

Upon approval of the application for registry the Collector will assign a registry number to the applicant and will issue a special stamp

in the class for which application is made. This special stamp must be kept posted conspicuously on the premises covered by the application.

Rates of Tax

Class 1. Importers, manufacturers, producers and compounders, \$24.00.

Class 2. Wholesale dealers, \$12.00.

Class 3. Retail dealers, \$3.00.

Class 4. Physicians, dentists, veterinary surgeons, other practitioners, \$1.00.

Class 5. Manufacturers of and dealers in exempt preparations, including dispensing physicians, \$1.00.

Class 6. Persons not registered in class 1 but lawfully entitled to obtain and use in a laboratory, narcotics for the purpose of analysis, instruction or research.

Change of Address

A registrant who changes his address shall, within thirty days, execute a new return on form 678-A, marking it "revised registry". The return shall set forth the date of change and the new address. The return shall then be sent to the Collector together with the Special Stamp, who will then record the change. If the removal is to a new state or district the registrant must, of course, be qualified to practice in that state or district.

Dispensing and Prescribing

A physician may obtain narcotics for direct dispensing or administration to patients only on official order forms. He cannot obtain narcotics on a so-called prescription for general office use. Order forms may be obtained from the Collector in books of ten orders, in duplicate. The form will be prepared by the registrant in duplicate, the original being forwarded to the qualified manufacturer or wholesaler and the duplicate retained for a period of two years. These duplicates are subject to inspection by a duly authorized Federal or State narcotic officer. The order must be prepared in ink, indelible pencil or by typewriting but not by use of an ordinary lead pencil.

A pharmacist obtains narcotics by the same method.

Physicians may dispense narcotics to bona fide patients in the course of their professional practice without prescriptions or order forms. The physician shall keep a daily record, showing the kind and amount dispensed or administered, the name of the patient, with address and the purpose for which administered or dispensed. Under the Federal law, physicians are not required to keep a record of narcotics dispensed to persons upon whom they, in the course of their professional practice, are in personal attendance.

No special form of record is prescribed, but the records shall be accurate, legible and kept in such a manner as to enable an inspecting officer to ascertain quickly the kinds and amounts of narcotics dispensed.

A physician may issue for a patient, for medical purposes only, a prescription for narcotics which may be filled by a qualified retail dealer, a druggist. The prescription shall be dated as of the date signed and shall bear the full name and address of the patient and the name, address and registry number of the physician. The prescription shall be signed in ink or indelible pencil in the same manner as a check or legal document would be signed. The refilling of a narcotic prescription is prohibited.

The furnishing of narcotics pursuant to telephone advice of a physician is prohibited whether prescription covering such orders is received or not. In an emergency a druggist may deliver narcotics through his employee, pursuant to a telephone order, provided the employee is supplied with a properly prepared prescription before delivery is made.

Safeguards

A physician's prescription blanks should be carefully safeguarded and never left where persons who may be drug addicts will have the opportunity to take them and to prepare and have them filled as forged narcotic prescriptions. Order forms should likewise be carefully protected from theft or loss. Great care should be taken by all registrants to safe-

guard their narcotic stock. The medical case containing narcotics should never be left by a physician in an unlocked or unattended automobile.

Exempt Preparations

There are certain preparations known as "Exempt Preparations". These preparations are those that contain no more than two grains of opium, one-fourth grain of morphine, one-eighth grain of heroin or more than one grain of codeine or any salt or derivative of them to one fluid ounce, or if a solid or semi-solid preparation, to one avoirdupois ounce, or to liniments, ointments or other preparations which are prepared for external use. Preparations containing cocaine or pantopon in any amount, whether for external or internal use, are not within this exception. Use for aural, nasal, ocular, rectal, urethral or vaginal use is not regarded as external and therefore preparations manufactured or used for such purposes containing larger percentages of narcotic drugs as mentioned are not within the exception.

There is no limitation upon the percentage of narcotics that external preparations may contain. In order to be within the exemption the preparation shall contain certain ingredients making it unfit for internal administration.

Preparations which are within the exemption may be sold with or without a prescription and a prescription for such a preparation may be refilled, provided of course, the preparation is furnished in good faith for medicinal purposes only.

The filling or refilling of narcotic prescriptions calling for more than one exempt preparation or a mixture consisting of an exempt preparation or remedy further reduced or diluted by the addition of non-narcotic medicinal agents is authorized, provided, the preparation is furnished for medicinal purposes in good faith.

An extemporaneous prescription calling for narcotics not in excess of the amounts previously specified may be refilled in the same manner as a prescription calling for ready

made remedies or preparations, provided the mixture is sold in good faith for medical purposes only, and a record kept of the sale.

Every vender, including dispensing physicians, or exempt preparations shall record all sales, or dispositions of the said preparations, the entries in the record to be made at the time of delivery. This record shall show the name and address of the recipient, the amount of the preparation and the name and the date of delivery.

Filling of Prescriptions

A prescription for narcotic drugs may be filled only by a dealer registered in class 3, an exempt official or a member of class 1 who is qualified to sell drugs at retail.

The refilling of a prescription for narcotics is prohibited.

As a general rule, the partial filling of a prescription for narcotics is not permissible. If, however, the dealer is not able to supply the full amount called for in the prescription and an emergency exists, he may furnish a portion of the drug called for by the prescription, provided he makes a suitable notation on the face of the prescription of the amount furnished and the reason for not supplying the full amount on the back of the prescription and advises the issuing practitioner. No further amount of narcotics shall be supplied except upon a new prescription.

The Government does not furnish prescription forms. Order forms which are supplied must not be used as prescriptions. Any prescription form may be used, provided the required data is shown thereon.

Dealers who fill prescriptions for narcotics shall keep them in a separate file in such a manner as to be readily accessible to inspection by a duly authorized officer, for not less than a period of two years.

The dealer filling a prescription for narcotics shall affix a label to the package showing his name and registry number, the serial number of the prescription, the name and address of the patient and the name and address and registry number of the practitioner issuing the prescription.

Persons qualified as retail dealers may supply registered practitioners aqueous or oleaginous solutions on order forms in quantities not exceeding one ounce at any one time, in which the narcotic content does not exceed a greater proportion than twenty percent of the complete solution, to be used in legitimate office practice. In cases where the dealer is registered in class 1 or 2 or both, these transactions should not appear on the monthly return which he is required to make as a member of the last named classes. The original order form should be filed with the regular narcotic prescription file. Each package containing these aqueous or oleaginous solutions must bear a label showing the date of the order, number of the order form, name and proportion of the narcotic and the name and address and registry number of the medic and vender, respectively.

Uniform State Narcotic Law

After several years' study, the final draft of the Uniform Narcotic Act was completed in 1932. The act was recommended for enactment in all of the states. This act has been adopted, in some cases with a few changes, by 42 states and by Congress for the District of Columbia and by the Territories of Alaska, Hawaii and Puerto Rico. The states of Pennsylvania and California have not adopted this law but have in effect laws which are considered adequate and effective.

The Uniform State Narcotic Law provides a comprehensive plan for intra-state control of the narcotic traffic. The law differs in some respects from the Federal law. Among other specifications it specifically penalizes the forgery or alteration of a prescription and also makes the furnishing of a false name or address a violation punishable by fine or imprisonment or both.

Cooperation With States

Under the law, the Secretary of the Treasury is directed to co-operate with the several states in the suppression of the abuse of narcotic drugs therefore the Commissioner of Narcotics exchanges information concerning the

use and abuse of narcotics with the state officials and co-operates in the institution and prosecution of cases in the Federal court and before licensing boards and courts of the state.

If practitioners and pharmacists will adhere to the narcotic regulations in prescribing and dispensing, irregularities will be reduced to a minimum.

Don'ts

DON'T: Leave prescription pads around.

DON'T: Take a narcotic prescription written in pencil.

DON'T: Store your working stock where patients may get at it.

DON'T: Fill a prescription for a physician's office needs.

DON'T: Hesitate to call this Bureau to get or give information.

DON'T: Fill prescriptions for strangers.

DON'T: Hesitate to call the physician regarding a doubtful prescription. YOU ARE ALSO RESPONSIBLE.

COURT DECISIONS

Sales of Vitamin Tablets

An action does not lie under the Declaratory Judgments Act to determine whether sales of vitamin tablets are subject to the provisions of this act, since no property rights are involved and a declaratory judgment concerning such subject would neither be a criminal prosecution for a violation of the act nor be available in a prosecution therefor as an adjudication of the facts in issue. (Department of State v. Kroger Grocery and Baking Co., — Ind. —, 46 N. E. (2d) 237, superseding (App.), 40 N. E. (2d) 375.)

Refusal or Revocation of Certificates

The statute which provides that the state board of pharmacy may refuse to grant certificates to persons as pharmacists, or may revoke certificates that have been granted, when persons who apply for or who have been granted certificates are guilty of a felony or gross immorality, is constitutional, and a proper exercise of the police power of the state. (Indiana Board of Pharmacy v. Haag, 184 Ind. 333, 111 N. E. 178.)

Indefiniteness and Constitutionality of Statute

The indefiniteness and constitutionality of the statute on which the action is based is not a ground of demurrer to the complaint. (Indiana Board of Pharmacy v. Haag, 60 App. 218, 110 N. E. 248.)

Sale of Intoxicating Liquors

Habitual sale of intoxicating liquors by a druggist in violation of law is such gross immorality as justifies the revocation of the license of such druggist. (Indiana Board of Pharmacy v. Haag, 184 Ind. 333, 111 N. E. 178.)

Drug Store Permits—Corporations

Under this section, making it "unlawful for any person, firm, corporation or co-partner-

ship to operate * * * any 'drug store' * * * without having first obtained a permit so to do from the Indiana board of pharmacy," a corporation is not prohibited from obtaining such a permit, because of the requirement of the statute that the applicant must produce facts showing the applicant to be a "person of good moral character" (63-1202), on the ground that corporations can not possess the attribute of good moral character. (Carroll Perfumers, Inc. v. State, 212 Ind. 455, 7 N. E. (2d) 970.)

Power to Adopt Rules

The legislature has authority to delegate to the board of pharmacy the power to promulgate rules and regulations for the proper enforcement of this statute. (Carroll Perfumers, Inc. v. State, 212 Ind. 455, 7 N. E. (2d) 970.)

Prosecution of Corporations

A corporation may be prosecuted for operating a "drug store" without having obtained a permit to do so. (Carroll Perfumers, Inc. v. State, 212 Ind. 455, 7 N. E. (2d) 970.)

Indictment or Affidavit

In a prosecution for operating a "drug store" without a permit by the state board of pharmacy, the affidavit charging the offense is sufficient when stated in the terms of the statute. (Carroll Perfumers, Inc. v. State, 212 Ind. 455, 7 N. E. (2d) 970.)

Exceptions from Act

The terms of this section, pertaining to the practice of pharmacy, are sufficiently explicit to inform persons conducting a store relative to what items may be sold without becoming a drug store within the meaning of this act. (Carroll Perfumers, Inc. v. State, 212 Ind. 455, 7 N. E. (2d) 970.)

Medicine Distribution, Constitutionality

This act is not unconstitutional because it denies equal privileges and immunity to a cer-

tain class of citizens; the act is a valid exercise of the legislative power for the protection of the health and lives of the inhabitants of the state. (*Ayers v. State*, 178 Ind. 453.)

Narcotic Drugs—Physicians Who Operate Drug Stores

Licensed physicians who keep drug stores can not sell the articles mentioned in this section except in pursuance of a prescription as herein provided. (*Niswonger v. State*, 179 Ind. 653.)

OPINIONS OF ATTORNEY GENERAL

Applicant who has attained his experience as an apprentice in a state other than Indiana may not take the examination for registration as pharmacist unless he has otherwise satisfied the experience requirement. 1933, p. 87.

Before board of pharmacy may issue a license without examination, the applicant must have a certificate or license from a state whose laws prescribe the same qualifications and standards as are set out in the Indiana statute. 1934, p. 68.

Examination of pharmacist apprentices under Acts 1939, ch. 16, must be taken before January 1, 1941, and eligibility ceases on that date. 1940, p. 222.

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